IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

Crl.MC.No. 2251 of 2007()

CP.149/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT, ALATHUR

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PETITIONER: ACCUSED

SHAJAN, S/O. PURUSHOTHAMAN,
AGED 30 YEARS, BRUCK LAND ESTATE, NELLIAMPATHY,
CHITTOOR TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.JOHNSON P.JOHN
SRI.BABY MATHEW

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
PADAGIRI POLICE STATION, PALAKKAD DISTRICT.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2251 of 2007

Dated this the 13th day of July, 2007

O R D E R

The petitioner faces indictment in a prosecution, inter alia, under Section 376 I.P.C. The petitioner was enlarged on bail in the crime stage. Final report has been filed. Cognizance has been taken. Committal proceedings has been registered. The petitioner appeared before the Committal court and was enlarged on bail. But on one date of posting, the petitioner was not present. The application filed by his counsel to condone his absence was dismissed and a non bailable warrant has been issued. Now the petitioner is willing to surrender before the learned Magistrate, but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. Therefore the petitioner prays that directions under Section 482 Cr.P.C may be issued in his favour.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or

specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-